

1 Q. Now would I be correct if I stated that
2 among other motivations that you have just
3 described, that the fact that Mr. Reid is a black
4 American for which the Federal Communications
5 Commission gives a preference if they have
6 integrated into the operation of a station, that
7 that also was a factor that was discussed?

8 A. Yes.

9 Q. And the fact he had broadcast experience
10 was a factor that you considered and was
11 discussed --

12 A. Yes.

13 Q. -- ultimately?

14 A. Yes.

15 Q. Ultimately this group came together and
16 you entered into some agreements, and there was the
17 shareholders' agreement that was signed, and this
18 document has already been identified as Reid
19 Deposition Exhibit Number 1. And I call your
20 attention to the top page there where there is some
21 Xs and there are typed numbers which are X'd out,
22 and there are new numbers which are handwritten in.
23 Do you know why those changes were made?

24 A. I can't recall the exact reason, but it
25 would appear we simply determined to keep the



1 percentages the same, but lower the number of issued
2 shares. I don't recall the reason.

3 Q. Do you recall when that agreement was
4 signed?

5 A. Without referring to the document, I
6 don't recall.

7 Q. The reason I ask is because it does not
8 appear to have any date other than December '88,
9 there's no date put in?

10 A. My recollection would be it would have
11 been shortly prior to our filing the application,
12 which I think took place in January '89.

13 Q. Philip Greenberg received 60 shares of
14 nonvoting stock; isn't that correct?

15 A. Correct.

16 Q. Which, am I correct, that that represents
17 60 percent of the equity of the corporation?

18 A. Correct.

19 Q. And Mr. Reid had all the voting stock, as
20 we just previously stated, and he was also the sole
21 director and sole officer; is that correct?

22 A. Correct.

23 Q. That's the way the application went
24 forward under that structure?

25 A. Yes.



1 Q. There came a point in time, did there
2 not, when Mr. Greenberg decided to get out of the FM
3 project?

4 A. That's correct.

5 Q. And when was the first point in time that
6 Mr. Greenberg indicated an interest in getting out?

7 A. I don't recall.

8 Q. Did he communicate this to you?

9 A. Yes.

10 Q. But did he give any reasons why he wanted
11 to discontinue his connection?

12 A. Yes.

13 Q. What did he say?

14 A. He said, essentially, that now that he
15 was living full time in Louisville and he was
16 interested in broadcast interest in that area, he
17 didn't want to have a long-term project down here
18 with really not knowing how much money would have to
19 be poured into it, A, to get the license, and then
20 B, to turn this virtually nonexistent station into a
21 profitable one. He would prefer it if I could get
22 him out of the project.

23 Q. You told him you could?

24 A. I told him I didn't know if I could, but
25 I told him because we are friends, in addition to



1 having a lawyer-client relationship, that if I
2 could, I would try to get him out and to get back to
3 him every dollar he had put into it. If that's what
4 he wanted, as his friend, I would do it.

5 Q. Ultimately there came a point when
6 documents were prepared concerning his withdrawal
7 from the corporation, and there is a document
8 entitled Greenberg stock agreement, and if you want
9 to look at it, I can show it to you, but in that he
10 states his desire to sell his stock for \$43,000 and
11 be freed from his obligation is the phrase?

12 A. Correct.

13 Q. Am I correct the obligation he's
14 referring to are his financial obligations to put
15 money into this project?

16 A. Correct, under the initial agreement.

17 Q. And it refers to a \$43,000 figure as the
18 Price for his stock, that's the figure that you just
19 said was what he had in --

20 A. That's correct.

21 Q. At this time an agreement was drafted in
22 connection with a Michael A. Goldberg as a potential
23 purchaser of some of the Philip Greenberg shares?

24 A. Correct.

25 Q. Now who introduced Mr. Goldberg into the



1 Jupiter Broadcasting situation?

2 A. I did.

3 Q. Was he a friend of yours or a business
4 associate?

5 A. Mr. Goldberg was a client of mine when I
6 was at Morgan, Lewis & Bockius, and subsequently,
7 became a friend and remains a friend to this day.

8 Q. Does he have broadcast interests?

9 A. He does not.

10 Q. But you thought he might be interested in
11 an investment possibility?

12 A. Yes, because he has a number of passive
13 investments.

14 Q. Now, well, did you contact him by
15 telephone? Does he live in this area, first of all?

16 A. He lives roughly 50 percent of the year
17 in Coral Gables and 50 percent in Aspen, Colorado,
18 on Red Mountain overlooking the town of Aspen.

19 Q. Were your contacts with Mr. Goldberg by
20 telephone or were there personal meetings to discuss
21 this?

22 A. Both.

23 Q. Were the meetings here or were they in
24 Colorado?

25 A. Would have been in Miami.



1 Q. The agreement, the draft agreement,
2 again, you did not prepare that?

3 A. That's correct.

4 Q. Now that agreement structures him as a
5 potential purchaser of 30 shares of stock?

6 A. I don't recall, but I'll take your word
7 for it.

8 Q. But there's also another agreement
9 involving a Mr. Alan Potamkin?

10 A. Correct.

11 Q. That was drafted at that time. Now who
12 introduced Mr. Potamkin into the Jupiter
13 Broadcasting Corporation project?

14 A. Mr. Goldberg introduced Mr. Potamkin to
15 me, so I'm guessing I did.

16 Q. And Mr. Potamkin, from what I saw from
17 the documents which have been produced, and there
18 was a letter on his letterhead, and down on the
19 left-hand side of the letterhead is a long list of
20 automobile dealerships. I take it he's in the
21 automobile dealership business as well?

22 A. Among other things.

23 Q. As well as having broadcast interests?

24 A. And other businesses, too, which the
25 letterhead may simply be too short to include. I



1 believe that my first meeting with Mr. Potamkin took
2 place at a restaurant in Coral Gables which he is at
3 least part owner of.

4 Q. Now was his interest or potential
5 interest in this project the result of his
6 ownership of some broadcast interests already?

7 A. I suppose that's a question you could
8 better ask Mr. Potamkin. He was introduced to me as
9 a person who had interest in investing in various
10 enterprises, and Mr. Goldberg specifically said to
11 me, and Mr. Goldberg is in the airline business,
12 that I don't know anything about broadcasting, let
13 me bring my friend, Alan, in.

14 I think he first brought him in to
15 advise him should I go into this, and then Michael
16 said I don't want to do anything outside of the
17 airline business, talk to Alan, and Alan said I'm
18 in, let's do it.

19 Q. Okay. So Mr. Potamkin, I take it, then
20 was coming in as Mr. Greenberg's replacement?

21 A. I think at one point there was discussion
22 as to whether they would both come in, and then Alan
23 said I'll take it all, meaning his and Goldberg's
24 share, something like that.

25 Q. The Michael Goldberg documents were



1 drafted with him being an outright purchaser of so
2 many shares of stock the Potamkin documents are
3 drafted in the form of an option to purchase so many
4 shares of stock, do you know why Mr. Potamkin didn't
5 simply purchase the stock?

6 A. I think that's between Mr. Potamkin and
7 the FCC lawyers, but it would have been based on
8 advice of counsel.

9 Q. This document entitled Alan Potamkin
10 option agreement, which is already in this
11 deposition as Reid Deposition Exhibit Number 4, let
12 me put it in front of you so -- Now that document
13 appears to provide for the \$43,000 that was going to
14 be paid to get Philip Greenberg out, in other words,
15 Mr. Potamkin was going to provide the money for the
16 option which would be used to pay off Mr. Greenberg;
17 isn't that correct?

18 A. Yes.

19 Q. That's your understanding?

20 A. Yes.

21 Q. And he also has an option to purchase 60
22 shares of nonvoting stock, which again would be 60
23 percent of the equity of the corporation?

24 A. Correct.

25 Q. And he also agrees to arrange for a loan



1 for the funds necessary to prepare and prosecute the
2 application?

3 A. Correct.

4 Q. Now one of the documents showed that you
5 had furnished a check for \$200 for your shares of
6 stock, you bought your shares of stock?

7 A. I believe all the subscribers paid \$10 a
8 share for their stock.

9 Q. And you had 20 shares?

10 A. Right.

11 Q. Have you had to pay anything in addition
12 to that \$200?

13 A. I don't believe so.

14 Q. Now the Greenberg stock was purchased by
15 the corporation, was that because Mr. Potamkin
16 wanted to do it via option as opposed to outright
17 purchase, do you have any knowledge of that?

18 A. I really didn't have anything to do with
19 that. I produced Alan Potamkin for this
20 transaction, but I'm not really intimately familiar
21 with the structuring.

22 Q. Were you involved in these negotiations
23 with Potamkin present, I mean --

24 A. I met with Alan face to face, but our
25 discussions were very cursory and I wouldn't



1 characterize them as negotiations in the sense that
2 that implies give and take.

3 Q. Now there was a letter dated December 16,
4 1988, that's this letter from you to Mr. Reid?

5 A. Correct.

6 Q. And you make reference in there to
7 starting up the bank account, the corporate bank
8 account?

9 A. Yes.

10 Q. And you, I believe, state here is my \$200
11 for my shares of stock and here is, is it \$4,300?

12 A. \$4,200.

13 Q. \$4,200 from Mr. Greenberg?

14 A. Right.

15 Q. And you use this to open up the account,
16 is there reference there to additional financing?

17 A. Well, there's a reference to some money
18 that may be owed to engineers and, yes, that the
19 corporation will be provided additional funding
20 before the end of the month.

21 Q. Okay. And that additional funding, was
22 that going to be from Philip Greenberg?

23 A. I would think so. I can't imagine where
24 else it would have come from.

25 Q. Now the last sentence in that letter



1 says, thank you for keeping me informed on your
2 progress concerning site selection and financing.
3 What steps was he taking in connection with
4 financing?

5 A. I don't recall precisely, but I believe
6 that Chuck was going to local banks in the area to
7 get a letter assuring us that we had a probability
8 of getting financing for construction of the station
9 over and above what it would take to prosecute the
10 application. That's my recollection anyway.

11 Q. Did you have any involvement in that
12 process of getting the letter from the bank?

13 A. I may have and I'm getting confused now
14 because I had another one of these applications
15 where I know I did. I can't recall at this moment,
16 but if you have any documents that demonstrate that,
17 I will gladly address them.

18 MR. CARR: There were a couple of
19 letters, Joe, from you. I don't know whether
20 you have all your letters there.

21 MR. BELISLE: I think I do.

22 MR. CARR: There was one March 6,
23 1990 and one April 10, 1990.

24 BY MR. CARR:

25 Q. You have before you the March 6, 1990



1 letter from Mr. Belisle on the letterhead of
2 Leibowitz and Spencer, it's addressed to Mr. Charles
3 E. Reid?

4 A. Right.

5 Q. It shows at the bottom a copy to you?

6 A. Yes.

7 Q. Now that letter says, enclosed are new
8 drafts of agreement designed to replace Philip
9 Greenberg in Jupiter Broadcasting Corporation. It
10 states, I have tried to incorporate Paul Levine's
11 March 5, 1990 comments interpreting in the manner
12 most favorable to the corporation. What comments is
13 he referring to there?

14 A. I have to tell you I don't have the
15 slightest idea, but apparently I would have looked
16 at a first draft on March 5th and commented on it.
17 I just don't know. Then Joe wrote this letter to
18 Chuck Reid on March 6th.

19 Q. And were these written comments?

20 A. I don't recall. I can't tell from the
21 letter either. It doesn't say my March 5th letter.
22 It says my March 5th comments. I just don't
23 recall. Usually I did stuff on the phone with the
24 lawyers, but I can't recall.

25 Q. Do you have any files that might contain



1 the March 5, 1990 letter if it existed?

2 A. It's possible, if it existed.

3 Q. Well, why don't we leave it that you'll
4 check to see if you have such a letter?

5 A. I will.

6 Q. Now did you send your comments, assuming
7 they were written comments, or if it was by
8 telephone, did you give your comments only to Mr.
9 Belisle?

10 A. I just don't recall.

11 Q. Now there is an April 10, 1990 letter?

12 A. Yes, sir.

13 Q. Am I correct that that letter makes
14 reference to you securing the financing, and I think
15 it states, quote, that we'll permit Philip
16 Greenberg's departure, closed quote?

17 A. Yes. So it does.

18 Q. What financing arrangements did you make?

19 A. Again, I'm trying to be careful so that I
20 don't confuse two different applications, but what
21 my recollection is, that the financing initially for
22 Jupiter was based on Philip Greenberg's acknowledged
23 net worth, and that upon his departure I may have
24 helped secure a -- I don't want to call it a
25 commitment because I don't know if that term may



1 have legal significance, but at least written
2 confirmation from a Miami bank that it would be
3 willing to finance the actual construction stage.

4 Q. Is this the Barnett Bank?

5 A. I believe it would have been United
6 National Bank.

7 Q. And --

8 A. Barnett is Mr. Potamkin's bank.

9 Q. Now there is a May 22, 1990 letter.

10 A. May 22nd?

11 Q. May 22, 1990?

12 A. Yes, sir.

13 Q. Do you have that?

14 A. Yes.

15 Q. That's a letter from Mr. Belisle to Mr.
16 Greenberg; is that correct?

17 A. Yes.

18 MR. BELISLE: Actually it's not.

19 THE WITNESS: Well, it's from your
20 office, from Mr. Belisle's office.

21 MR. CARR: I don't have it right in
22 front of me.

23 MR. BELISLE: Anthony Lepore.

24 BY MR. CARR:

25 Q. It's from Leibowitz and Spencer, but not



1 from Mr. Belisle?

2 A. We can't pin this letter on him.

3 Q. All right. Now in this letter to Mr.
4 Greenberg reference is made to sending the \$43,000
5 check to you; is that correct?

6 A. Correct.

7 Q. Made payable to Mr. Greenberg, but he's
8 sending it to you?

9 A. To me for transmittal to Mr. Greenberg.

10 Q. Why was the check sent to you, do you
11 know why it was done that way?

12 A. I don't know. It seems like it's a
13 needless waste station on the way to Mr. Greenberg.
14 I don't know.

15 Q. After the initial shareholders' agreement
16 which we looked at earlier, which we identified as
17 Reid Exhibit 1, there was a revised agreement
18 prepared; isn't that correct?

19 A. Yes.

20 Q. Do you recall that?

21 And we have the revised
22 shareholders' agreement identified as Reid Exhibit
23 2, and I'm going to put that over there in front of
24 you. Now it's true, is it not, that there is
25 language in this revised agreement that was not in



1 the original agreement?

2 A. I'm sure that's true, but if you ask me
3 what that language is, I would have to look at it.

4 MR. BELISLE: Are we talking about
5 the revised shareholders' agreement?

6 MR. CARR: Yes.

7 MR. BELISLE: That's attached to
8 the Alan H. Potamkin agreement?

9 MR. CARR: That's correct.

10 MR. BELISLE: I have a copy here.

11 BY MR. CARR:

12 Q. On page nine of that agreement,
13 Mr. Levine --

14 A. Yes, sir.

15 Q. There's paragraph 7, which refers to
16 additional financing. In the last sentence of the
17 paragraph marked as (a), it refers to all
18 shareholders agreeing to provide personal guaranties
19 for financing up to \$800,000?

20 A. Yes.

21 Q. Has any financing been acquired that has
22 already required personal guaranties?

23 A. Yes.

24 Q. At the bottom of the page, you'll see
25 under paragraph 8, buy-back provisions, and this



1 deals with the owners of various classes of stock
2 getting their shares purchased either by the
3 corporation or by other shareholders. That's new
4 provisions. Do you know how those provisions got
5 into this agreement, who suggested that language?

6 A. I don't recall other than to say it
7 wasn't me. I don't recall, but I'm sure it was
8 discussed by all of us at the time.

9 Q. Now turning to page 11.

10 A. Yes, sir.

11 Q. Paragraph 9 entitled employment of
12 Charles E. Reid, that's new language, how did that
13 language get in there, do you know who suggested
14 that?

15 A. I believe Chuck suggested that based on
16 the fact he was spending way more time on
17 application-related matters than he had anticipated
18 when we got into this project.

19 Q. And he has been paid \$500 a month; isn't
20 that correct?

21 A. I believe he has been paid \$500 a month.

22 Q. Now after the revised shareholders'
23 agreement was drafted there came a second revised
24 shareholders' agreement?

25 A. Yes, sir.



1 Q. Which we have identified as Reid Exhibit
2 Number 3, and there is some language in here which
3 is different from the other agreements?

4 A. Correct.

5 Q. For example, on page 13, if you would
6 turn to that.

7 A. Yes, sir.

8 Q. Paragraph 15 is entitled option on
9 Charles Reid stock, and this gives the other
10 shareholders an option to buy out Charles Reid's
11 interest in the corporation within a 45-day period
12 after the first anniversary date of the
13 corporation's starting of operations?

14 A. Correct.

15 Q. How did this language get into the second
16 revised agreement, who suggested this language?

17 A. I don't recall who suggested it. I'm
18 sure it was arrived after discussions among us with
19 the lawyers.

20 Q. Did you have discussions about this
21 language with Mr. Potamkin?

22 A. I don't recall a specific discussion with
23 Mr. Potamkin or anyone else about the language.

24 Q. Now right above paragraph 15, paragraph
25 14, entitled construction of station, that's new



1 language that did not appear in either of the prior
2 agreements we've discussed, and that states that if
3 the station is not -- If you get a permit and the
4 station is not constructed within 18 months, Charles
5 Reid becomes a nonvoting shareholder and you become
6 president, how did that language get in there?

7 A. I don't recall precisely, though I recall
8 some discussion that we would have 18 months to
9 construct a station and get it on the air, so that
10 we if we failed to do so, we were in jeopardy of
11 losing the construction permit. And since Chuck was
12 the one who was in charge of getting these things
13 done, even under a somewhat different structure,
14 that if this didn't take place within 18 months, he
15 agreed he wouldn't have been doing a very good job
16 as the CEO of this company and he would be replaced,
17 although I assure you I have no ambition to be the
18 president.

19 Q. I assume, am I correct, that this was
20 discussed with you, otherwise, you would not -- your
21 name would not be down there as the one to become
22 president?

23 A. I'm sure it must have been. I don't
24 recall a specific discussion.

25 Q. Now in August 1989 you and Mr. Reid went



1 to the Jupiter radio stations owned by Mr. Taylor?

2 MR. BELISLE: If I could just
3 object, because the question says August of
4 1989, does that -- would you --

5 THE WITNESS: I went there once,
6 but I don't recall when it was exactly. It
7 probably would have been around January when
8 the application was filed.

9 MR. CARR: Maybe -- we can
10 probably -- if I said -- I did say August, but
11 I could be wrong on August. Let me see if he
12 says it here.

13 BY MR. CARR:

14 Q. You don't refer to a date, but Mr. Reid
15 refers to January 1989?

16 A. That would be correct.

17 Q. And this is the declaration?

18 A. Yes, sir.

19 Q. And you state that you went to the Taylor
20 station with Mr. Reid?

21 A. That's correct.

22 Q. What was the purpose of going to the
23 stations?

24 A. To examine the public file.

25 Q. Now were you aware of the fact that the



1 stations were off the air?

2 A. Well, I was certainly aware that at
3 various times they were off the air, but my
4 recollection is they were off and on and off and on
5 in that, as I'm trying to remember now, three and a
6 half years ago. I must have thought they were back
7 on if we were going there to look at the public
8 file, or at least that somebody was on the premises,
9 one of the two.

10 Q. Now if you look at the last sentence in
11 this paragraph, the second paragraph, you state we
12 did not expect to meet anyone?

13 A. All right. That refreshes my
14 recollection. Thank you.

15 Q. And I think you go on in that letter to
16 state that you were surprised when the door was
17 open?

18 A. That's correct.

19 Q. And so you knocked and you yelled out,
20 and that Mr. Taylor then came out and you introduced
21 yourselves, is that accurate?

22 A. That's exactly what happened.

23 Q. When you introduced yourself, how did you
24 introduce yourself, did you just say I am so-and-so,
25 I am Paul Levine?



1 A. I don't recall.

2 Q. Do you recall whether you mentioned to
3 him that you were connected with Jupiter
4 Broadcasting?

5 A. Yes, because we had a discussion about
6 the very concept that we were the applicants for the
7 license.

8 Q. And the reason I asked the question is
9 because you state in there that, you say after Mr.
10 Taylor realized who Mr. Reid and I were, and my
11 question was, when did he realize who you were and
12 what triggered the realization?

13 A. I don't recall, but my best recollection
14 would be that we informed him of who we were,
15 otherwise, I don't think the names would have meant
16 much to him.

17 Q. Now you also in here make reference in
18 the second paragraph on page two, that you had
19 telephone considerations with Mr. Taylor, do you see
20 that language there?

21 A. Yes.

22 Q. Do you know how many times you talked to
23 him on the telephone?

24 A. No.

25 Q. Now you state in there that, in response



1 to Mr. Taylor's arguments, I did tell him that he
2 should consider selling his stations to Jupiter
3 Broadcasting Corporation?

4 A. I do say that.

5 Q. Now did you tell him that each time you
6 talked to him?

7 A. I don't recall that.

8 Q. Have there been discussions among the
9 Jupiter Broadcasting Corporation shareholders about
10 buying Mr. Taylor's stations?

11 A. In the sense of settling this
12 litigation?

13 Q. Let's make that the first one. In the
14 sense of settling this have there been discussions
15 among all of the shareholders?

16 MR. BELISLE: You know, I just --
17 if we could just clarify that if there really
18 were a settlement here, it probably wouldn't be
19 in the form of an actual purchase of the
20 station as opposed to a dismissal of Mr.
21 Taylor's application and maybe purchase of the
22 station's assets, something along those lines.

23 MR. CARR: If that would make it
24 easier and clarifies --

25 MR. BELISLE: I don't know if it



1 does clarify it.

2 MR. CARR: I was using the purchase
3 in a loose form. I was not thinking in terms
4 of the preparation, filing of an asset purchase
5 agreement. That's not what I meant by
6 purchase. That was being a shorthand for
7 acquiring the stations through the payment of
8 money.

9 THE WITNESS: Yes. Since at least
10 December 1988, Chuck Reid and I talked about
11 this numerous times and Bill Washington fewer
12 times.

13 BY MR. CARR:

14 Q. What about with the current largest
15 nonvoting shareholder, Mr. Potamkin, have you had
16 discussions with him?

17 MR. BELISLE: If only you
18 characterize him as an option holder.

19 MR. CARR: I think that's a fair
20 correction.

21 THE WITNESS: Whatever Mr. Potamkin
22 is, in addition to being a very good whitewater
23 rafter, I have discussed with Mr. Potamkin what
24 I believe the stations are worth and the
25 concept of settling the case, yes.



1 BY MR. CARR:

2 Q. Now am I correct that the prosecution
3 expenses of the application are being paid out of a
4 loan fund at Barnett Bank?

5 A. I'm not sure what loan fund means, but
6 coming out of Barnett Bank, yes.

7 Q. Perhaps for clarification, has an
8 arrangement been made with Barnett Bank for them to
9 advance funds in the form of a loan and that money
10 is drawn upon to meet the expenses of Jupiter
11 Broadcasting Corporation?

12 A. I believe that's correct.

13 Q. And that loan, am I correct that that
14 loan has been obtained by Mr. Potamkin?

15 A. Yes, sir, under terms of the option
16 agreement which requires him to advance those
17 monies.

18 Q. Now there is language in the Potamkin
19 agreement which states that if the expenses for
20 prosecuting this case exceed \$240,000, that then
21 additional loans will be arranged, but that Mr.
22 Potamkin will be responsible for his pro rata share
23 of those?

24 A. Correct.

25 Q. I think they refer to six-tenths of, I